

WASHINGTON STATE GAMBLING COMMISSION

MINUTES

COMMISSION MEETING

THURSDAY, MARCH 14, 1996

Chairman Tull called the meeting to order at 1:30 p.m. at the Yakima Valley Red Lion Inn, Yakima, Washington.

MEMBERS PRESENT: ROBERT M. TULL, Chairman; EDWARD HEAVEY; CURTIS LUDWIG; and LIZ McLAUGHLIN; and Ex Officio Members SENATOR MARGARITA PRENTICE, and SENATOR IRV NEWHOUSE.

OTHERS PRESENT: FRANK MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special Operations;
SHERRI WINSLOW, Assistant Director, Field Operations;
CARRIE TELLEFSON; Special Assistant, Public Affairs;
JONATHAN McCOY, Assistant Attorney General;
BILL MCGREGOR, Special Agent, Field Operations;
NEAL NUNAMAKER, Program Manager, Financial Investigations
Unit;
MICHAEL AOKI-KRAMER, Rules and Policy Coordinator;
and SUSAN GREEN, Executive Assistant.

Chairman Tull welcomed the newest commissioner, Liz McLaughlin, and said her appointment was confirmed by the Senate March 5.

SPECIAL SCOPE AUDIT

UNITED BLIND OF THE TRI CITIES

Ben Bishop said United Blind of the Tri-Cities (UBTC) petitioned the Commission in January for relief from the bingo net income requirements set forth under WAC 230-20-064. The Commission granted UBTC a temporary upgrade in its license at that time and also asked staff to review the information UBTC presented. Mr. Bishop introduced Special Agent Bill McGregor to give the Commission a briefing of staff findings and recommendations.

Special Agent Bill McGregor said UBTC was formed in 1976, obtained nonprofit status from the IRS in 1983, and was licensed by the Gambling Commission in 1986. In 1995, UBTC spent \$35,995 of its reserve funds for program services. Program services provided by the organization include providing visual aids for blind members of the public, support group lunches, and craft classes. UBTC also contributes money to the Senior Companion program and a scholarship program administered by the Washington Council of the Blind.

In 1994, UBTC had a net loss of \$7,204 from its gambling operations, which includes bingo, pull tabs, and snack bar. In July of 1995, UBTC's license class was downgraded, in accordance with WAC 230-20-064, from a class "G" to a

class "E" bingo license. In 1995, UBTC's net loss increased to \$35,454 and in January of 1996, there was another net loss of \$2,023.

In December of 1995, UBTC filed a petition with the Commission to upgrade its license class to a class "F" or "G" so it would not exceed the maximum gross receipts limit on its Class "E" license. The UBTC also petitioned for relief of any penalties that would be sought for failing to notify the Commission within 30 days failing to meet net income compliance and failing to notify the Commission of excessive reserves.

In the original petition, UBTC indicated it was attempting to vacate its current premises, feeling that its lease expenditure was one of the main causes for being out of compliance. At that time, UBTC indicated its rent was approximately \$8,000 per month. UBTC felt it could get a facility at \$3,000 per month. Staff review determined that UBTC's lease payments are currently \$7,217 per month. In January of 1996, UBTC amended its petition to ask for the same relief, but also stated it would not be feasible to break UBTC's current lease agreement. UBTC stated its intention to stay at the current location until April 30, 1997, when the lease expires.

After UBTC realized that the location it was trying to lease for \$3,000 per month had only 24 parking spaces for a seating capacity of 200, UBTC decided the location would not be suitable. At the January meeting, UBTC stated it would strive to achieve a positive net income. UBTC also stated it was planning to spend \$32,000 of its reserve funds to keep its programs going during the 14 - 16 month period remaining of the current lease if the Commission allows UBTC to continue to operate. UBTC also indicated it is working to decrease its dependancy on bingo income by applying for funds from the United Way.

In January of 1996, the Commission authorized UBTC to operate at a class "F" bingo license for a 90-day period. As part of the authorization, UBTC agreed to maintain a positive cash flow and an average payout at or below 84% when measured on a calendar quarter. UBTC also agreed to freeze controllable expenses and provide reports to the Gambling Commission as to the prize payout and gross receipts of the gambling operations on a monthly basis within twelve days of the end of the month. The cash flow was calculated for each of the four quarters in 1995 and January of 1996. A negative cash flow was reported for a majority of the reporting periods. In 1995, the organization's cash flow from the gambling operation was minus \$16,883. UBTC covered this by transferring \$17,000 from its program reserve funds to the gambling operations.

In January of 1996, UBTC had a decrease in cash flow of \$4,105. This was mainly attributed to the paying of UBTC's 4th quarter gambling taxes of \$7,666.

UBTC has frozen all controllable expenses as of the time of staff's review. UBTC did provide staff with the January and February reports within the 12 day period required in the agreement.

UBTC has exceeded payout percentages since 1992; however, for the period of January and February of 1996, the payout average for those two months was down to 81.3%, which is within the 84% requirement of the January 1996 agreement. UBTC's payout percentage in February was between 77% - 78%. UBTC has made several changes in an attempt to bring its bingo game into compliance. The manager has made monthly game schedule changes which she feels will increase the attendance. Also, in October 1995, UBTC converted its snack bar into a deli-style snack bar, which resulted in a 30% decrease in snack bar wages.

UBTC unsuccessfully attempted to negotiate a release from their current property lease agreement.

There was a lot of concern at the January meeting regarding the lease payments and what would happen if UBTC closed. The only clause in UBTC's current lease agreement that allows it to terminate the lease before April 30, 1997, would be if UBTC permanently loses its gambling license. In that event, UBTC can give a 60 day notice to the landlord to vacate the premises and terminate the lease at that time. UBTC moved to its current facility in 1987 and renewed its lease in 1992 for the five-year period which runs to April 30, 1997. The lease contains a 5% escalation clause and also calls for a base rent plus a portion of common area charges. UBTC's current lease at \$7,217 per month equals \$10.82 per square foot.

In the local Tri-Cities market area there the following are four main bingo halls: UBTC, Bingo Palace (Columbia Basin Domestic Violence Services), Bingo City (Educational Institute for Rural Families), and Bingo Boulevard (Rotary Club - Columbia Center). Bingo Boulevard entered the market in the Tri-Cities in the 3rd quarter of 1992. UBTC plays bingo on Monday, Wednesday, and Thursday. UBTC competes with Bingo Boulevard 2 days a week and with Bingo City 1 day a week. The Tri-Cities market area increased gross receipts rapidly from the period of 1990 to 1993. In 1994, the increase slowed and in 1995, the gross receipts decreased by 7.2%. Attendance was also down 11%. The combined net income from the gambling operations was down 32.3% in 1995 from 1994, which equals about a \$425,000 decrease in net income in the area.

Bingo managers in the area attribute most of this decrease to the Wild Horse Tribal Casino in Pendleton, Oregon, which opened in November 1994. However, UBTC's net income started to decrease in the 2nd quarter of 1992, which was the quarter before the Rotary Club entered the market and a year and a half before the tribal casino opened. UBTC has the highest payout percentage in the Tri-Cities and the second highest rent expense. UBTC's wages as compared to a percentage of its gross receipts is well within the average of the area, and in fact at the low end compared to the other halls. UBTC's total expenses have decreased. Overall, UBTC has cut expenses. Unfortunately, the expenses have not decreased as fast as the gross receipts. UBTC's low gross receipts and high prize payout percentages and expenses resulted in a low net income. Even with the market downturns in the area, the other three main halls in the Tri-Cities have managed to maintain net income and prize payout compliance since at least 1990.

In conclusion, UBTC has operated two years at a net loss. UBTC has used organization funds to support the gambling activity. Based on staff's review, at this time we recommend that UBTC be allowed to continue at a class "F" license until June 30, 1996, at which time its license would be downgraded to a class "E," or if it fails to make significant progress toward its stated purpose, the possibility of administrative actions would be taken at or before that time. Staff recommends the conditions of the temporary upgrade to a class "F" should remain in effect until June 30, 1996. The organization should not be allowed to upgrade its license class until a time at which it can demonstrate the ability to maintain a net income level equal to or greater than the net income requirement of the license class of which it seeks.

Commissioner McLaughlin asked how UBTC can keep going if it isn't doing well with bingo. **Mr. McGregor** answered that UBTC is hoping to hang on until its lease runs out.

Commissioner Ludwig asked about the bingo game located next door and why it is doing well but UBTC is not. **Mr. McGregor** said Columbia Basin Domestic Violence Services is a slightly larger hall square foot wise. It also operates on weekends and typically weekend games seem to do better than weekday games as long as there is not too much competition. They do not compete against each other on the same day.

Chairman Tull noted that the reason these matters are treated with such seriousness is the Commission does not wish to have the employees of a game be unmonitored as they continue to operate a game down to the last penny or dollar of available credit that the charity has. There have been a few situations in the past when the Gambling Commission Director has had to step in and terminate the operations of certain licensees. He said he doesn't believe action must be taken today on this organization. **Director Miller** clarified staff are asking for approval of the recommendation. **Mr. McGregor** said staff is requesting that the organization be allowed to continue until June 30, 1996, under the conditions of the January 1996 temporary approval. **Chairman Tull** offered the opportunity for a representative of UBTC to speak.

Frank Cuta, President of UBTC said they are very grateful for the opportunity to continue operating. He said UBTC's main concern is that the money they have in the bank will go to their landlord if the game is shut down, so they'd like to keep going for at least a year.

Commissioner Ludwig moved for approval of staff's recommendation. **Commissioner McLaughlin** seconded the motion. *Vote taken, motion carried with four aye votes.*

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS AND TRIBAL CERTIFICATIONS

Commissioner Heavey moved for approval of the new licenses, changes, withdrawals and tribal certifications as printed in the published agenda. **Chairman Tull** seconded the motion. *Vote taken, motion carried with four aye votes.*

REVIEW OF FRIDAY'S AGENDA

Carrie Tellefson said tomorrow there are 28 rules up for final action: 2 rules relating to administrative order appeals; 12 rules relating to streamlining the qualification review process; 5 rules relating to gift certificates and transportation allowed to bingo games along with a variety of other rules. There are 5 rules up for discussion tomorrow and 15 rules up for discussion and possible filing that are the results of discussions with the licensee study groups.

CLASS III MANUFACTURER

PROGRESSIVE GAMES, INC.

Neal Nunamaker said on October 6, 1994, Progressive Games, Inc. (PGI) submitted an application to obtain a license to manufacture gaming equipment and supplies for sale in the state of Washington. Specifically, PGI desires to lease "Caribbean Stud Progressive Poker" and "21 Super Bucks" to Mikon Gaming Corporation, Inc., a licensee of the Commission, which in turn will lease the games to tribal casinos operating in Washington state. PGI was formed in 1991 to research, develop, and market casino table games. The company also designs, manufactures, and distributes equipment required to implement their games, which include table games, game layouts, computer software, and electric signs promoting and displaying the progressive jackpots in the casinos. Donald W. Jones is the president of PGI and owns 100% of the company's outstanding shares.

During the week of December 5, 1994, a financial and background investigation was performed at the offices of PGI in Fort Lauderdale, Florida. Corporate records were analyzed to determine ownership and verify sources of funds. Procedures performed included a review of financial statements, tax returns, check registers, loans, leases, and agreements. Employees were interviewed and a tour was conducted of the company's manufacturing facility.

During the investigation, it was discovered that PGI did not own the patent rights to Caribbean Stud Poker and 21 Super Bucks table games. The patent owner was D&D Gaming Patents, Inc., a Nevada corporation owned by Daniel Jones, father of Donald Jones, president of PGI. At PGI's request, the investigation was suspended from January through September 1995 while it made efforts to purchase those rights. In September 1995, PGI entered into an agreement to purchase the patent rights held by D&D Gaming Patents. The patent rights were irrevocably sold, transferred, and assigned to PGI. D&D Gaming Patents, Inc.'s rights, titles, and interests in Caribbean Stud Poker and 21 Super Bucks were terminated at that time. The investigation did not reveal any adverse information and staff recommends issuance of a license as a Class III manufacturer.

Chairman Tull noted that the costs of these investigations are borne by the applicants and not paid for by the Gambling Commission. **Director Miller** also noted that the purchase and the buy out of the patent holder was a condition precedent to being licensed in this jurisdiction because of concerns regarding the patent holder. Although the parties involved are related, staff required a complete buy out, not just a buy out for rights to distribute the games in Washington state. PGI has entirely bought the patent, there was an exchange of funds, and staff has verified that. Staff recognizes this is a father-son situation, but from a business perspective, their relationship is now in fact separated and staff is confident that PGI and D&D Gaming Patents are no longer one business.

Commissioner McLaughlin asked how much the son paid for the patent rights. **Mr. Nunamaker** answered the amount was \$5 million.

Commissioner Heavey asked what was the type of purchase agreement. **Mr. Nunamaker** said it was an irrevocable sale of the rights; a total cash out and transfer of the patent rights has been filed with the U.S. Dept. of Commerce. **Director Miller** said Caribbean Stud Poker is a progressive table game and D&D

Gaming Patents, Inc. held the patent on it. The reason why staff wanted D&D Gaming Patents out was because of its past history. Without requiring that D&D Gaming Patents be completely bought out, it would have benefitted every time a hand of Caribbean Stud or 21 Super Bucks was played. PGI is licensed everywhere else, now it will be in Washington state if the Commission agrees.

Chairman Tull asked whether any Commissioners wish to deliberate and wait until Friday to announce a decision.

Commissioner Heavey moved to approve PGI for a Class III manufacturer's license. **Commissioner McLaughlin** seconded the motion. **Commissioner Ludwig** asked who is obligated to pay back the loan for the patent. **Mr. Nunamaker** said the loan is to PGI and is guaranteed by Fred Kasner. Mr. Kasner has extensive holdings. In a total default situation, Mr. Kasner is the one who is going to be on the line for the loan.

Commissioner Heavey asked what the remedy is for default on the loan. **Mr. Nunamaker** said there wouldn't be any default to D&D Gaming Patents, because it has been completely cashed out. The default would be to the bank and PGI obviously would have some liability with the bank. Mr. Kasner would probably take over the assets of PGI if he paid off the bank loan.

Mr. Bishop asked if there was a criminal background check completed on Mr. Kasner. **Mr. Nunamaker** said Mr Kasner underwent both a criminal and financial background investigation with no problems. **Commissioner Heavey** asked if Daniel Jones could end up with the patent again. **Mr. Nunamaker** said no, not under the terms of the contract. **Director Miller** said staff does not believe that Daniel Jones is qualified, and staff will be monitoring the progress of PGI as well. **Chairman Tull** said his support of the motion is with the understanding that that which was important now is important after the license is issued as well. He then asked if Caribbean Stud Poker requires a license in the other states where it is played. **Mr. Nunamaker** answered Caribbean Stud Poker is licensed in Nevada under a company called DP Stud, which is owned by Donald Jones' brother.

Commissioner Ludwig asked if PGI is seeking a license to market casino table games in Washington, but they already have a contract with Mikon, which is licensed and will lease the games to tribal casinos in Washington state, why would they want to continue that lease? **Mr. Nunamaker** said the contract with Mikon is a worldwide contract for that game and other items. Mikon has a number of different types of holdings and sometime ago they purchased those rights. When it became available to casino operations here, Mikon was the original one who approached the Commission and said it wanted to put in Caribbean Stud Poker because it holds the rights. Staff read Mikon's contract with PGI and saw how much benefit flowed to PGI. Staff then said it wanted to see PGI licensed as well. Then staff looked at PGI and noticed the amount of money flowing to D&D Gaming Patents. Staff then said it was going to have to see D&D Gaming Patents licensed as well. That's when everything came to an abrupt halt.

Commissioner McLaughlin asked if the reason for the in-depth investigation was because of the concerns about the father. **Director Miller** said in the investigation process, staff realized that the party benefitting the most was the father; therefore, he was the owner or one of the owners, at least from staff's perspective, and he has to be licensed under our rules to benefit from

gambling. We would have looked at the father anyway, but had we not had some concerns, we would not have made him divest his interest in PGI. **Mr. Nunamaker** said we would have probably gone all the way back with the licensee because of the financial benefit that flows in this particular game. In some games, there's not as much financial benefit flowing back. He noted there is a considerable fee to operate one of these tables.

Chairman Tull called for the vote. *Vote taken, motion carried with four aye votes.*

Director Miller said this investigation is an excellent example of what the Gambling Commission must do and how far it has to go to make sure people who benefit from gambling are qualified. This is a process the Commission started getting much more into when it entered into partnership with the tribes of the state because this is how the Commission works together with the tribes to ensure these parties are qualified. This was a very good example to see.

TRIBAL COMPACT REVIEW

CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION -- CLASS III GAMING COMPACT

Chairman Tull said this is a public hearing. He noted there would be no action taken today by the Commission in order to comply with the statutory requirement of waiting to receive comments from certain committees of the Washington State Legislature. The Legislature has a review responsibility and authority as well. Their comments, once received, will be considered by this Commission at a future meeting. It is anticipated that action will be taken at the April Commission meeting; any questions the Commissioners have between now and then may be directed to the Commission's legal counsel, Assistant Attorney General Jon McCoy.

He said he has a list of people who signed up to testify on this matter and noted that if anyone on the list decides not to testify, they can either just not come to the podium, or they can notify Ms. Tellefson.

Director Miller gave an overview of the tribal compact negotiation process. He said tribal-state compacts have been negotiated by the Gambling Commission since 1989. This is the first compact in Eastern Washington and the 17th compact for the state of Washington. He said the agreements are beneficial to both state and tribal governments.

He said the state negotiates tribal state compacts because it is required to by federal law. In 1988, Congress gave the states an opportunity to play a role in the tribal gaming arena. Before 1988, states had no opportunity to negotiate. Tribes certainly, at least arguably, had the opportunity to do what they wanted without state involvement. Many tribes did not want the state involved in this process because of their sovereign nature and as a result, Congress put in the law a "bad faith provision" which said if a tribe believes the state is not negotiating in good faith, the tribe may file a lawsuit against the state.

If the tribe is correct and it prevails, then ultimately, if the parties cannot agree, the Secretary of the Interior, along with the tribe, will determine the nature and scope of gambling between the tribe and that state. What that means

is if the parties can't agree and they go to court and the state loses, then the state loses its opportunity to play a role. The Gambling Commission took that possibility very seriously and did not want to lose its opportunity to play a role. The Commission took a position that it would negotiate and try to negotiate compacts that accomplished certain goals.

The goals have been to keep the criminal element out of all gambling. That is the Commission's mission. The Gambling Commission is the second oldest gambling regulatory agency in the country, and the third largest. The tribes' goals are the same. This is a common interest to both sides. The Commission wanted to make sure the gaming is fair and honest once and it's up and running, that the public that goes in to play is treated fairly, and they know they're going to a fair game. The Commission also wanted to ensure that the non-tribal community still has an opportunity to have some gaming. That is why the Commission negotiated what it believes are reasonably sized operations and simply did agree to unlimited gambling on the reservation. The Commission wanted to make sure the impacts on local governments around tribal communities would also be addressed; that is why the compacts have a 2% community contribution. The proposed Yakama compact is consistent with others negotiated and finalized with other tribes.

Director Miller noted there were two local caucus meetings, one with the public, one with local law enforcement and other governmental officials and that both were well attended. The reason the compact is going forward quickly now is because the Tribe and the state had reached an impasse. After approximately 8 - 9 months of negotiations, negotiations broke down and it was clear that the Tribe and the State were quite far apart. The Tribe then chose to pursue its remedies under IGRA, which was to file a lawsuit. That lawsuit is still pending today. About six months after the lawsuit had been filed, the Tribe contacted the Commission and wanted to see if there was possibly a way to settle the suit and go forward. Staff feel that what is before the Commission is a way to settle the suit and move forward.

Director Miller said the compact allows for one casino within the boundaries of the reservation and allow for gaming at Phase I and then Phase II gaming. Phase I is the first step which allows 31 tables of gaming plus one table for local charities. The maximum wager in the casino under Phase I will be \$250.00. Games authorized include blackjack, craps, roulette, Caribbean Stud Poker, all types of Class III games with the exception of slot machines. Slot machines will not be permitted.

The phase I and II process involves a review after six months of operation at Phase I, at which time WSGC performs an extensive in-depth review of the operation. If approved by the Commission, the tribe goes forward to Phase II levels of operating, which includes up to 50 tables of the same types of games plus two charitable for the community, 140 hours per week, 20 hours per day maximum, three weekends a year they can go 72 hours straight, \$500.00 maximum wager, and one facility. These aren't small operations, but they are a far cry from what we see in Nevada and the reason is because we don't have slot machines in this state and that makes it a different type of gaming. The issue of whether we must negotiate for slot machines is before the courts and will probably be resolved sometime this year.

With regard to the regulation, this compact forms a partnership between the Tribe and the state. The Tribe's tribal gaming agency is the primary

regulator, and the Gambling Commission is there to monitor to ensure that the compact is followed. With regard to certification of employees, every employee, financier, supplier, etc., goes through extensive review by the Gambling Commission working in conjunction with the Tribe. Such parties are certified by the state and then the Tribe has the option to license as well, thereby creating a dual process that works very well.

As far as the day to day regulation and jurisdiction, both governments share in that role, but the primary regulator will be the Tribe through its tribal gaming agency. The tribal gaming agency will be at the casino at all times. The first year of operation the Gambling Commission is at the casino often, working closely with the Tribe. As time goes on and the tribe develops its expertise, the Commission adjusts its role, but remains in a monitoring basis.

The Tribe and the state have agreed to incorporate all the gambling crimes in the state in this compact such that anybody who commits a bookmaking violation, theft, cheating, fraud, etc., can not only be charged under federal and tribal law, but also state law. The reason the state negotiated this particular provision is to make sure the Tribe and the state can remove the problem, which is absolutely critical. Commission staff negotiated an exchange of power, but a balance of power with the Tribe being the primary source of regulation and control, the Commission being the monitoring base, and both governments sharing equally in their ability to ensure the terms of the compact are being met.

Initiative 651, which was defeated in November, did not allow for state oversight. There is a common interest by both governments here. The citizens playing at a tribal gaming operation are citizens from this state and the Commission has an obligation to ensure the gaming's integrity as well as the tribe. That is where the partnership has to work and that's what the voters of the state said they wanted last November. This compact allows for that partnership to develop and staff look forward to working with the Tribe to secure that end.

Director Miller noted the compact does a few more things. It has a community contribution, wherein two percent of the net win (net win is after prizes, but before expenses) is paid to the local communities to offset impacts of the casino. Each compact has this contribution and it has been a successful program; it works very well for allowing the tribe and the community to work together. The compact also provides for up to two charitable tables to benefit the community under Phase II scope of operation. The Tribe determines which charities benefit, but this provision is intended for non-tribal charities. The contribution was designed to help local charities offset the competition faced by tribal gaming operations. Commission staff see the effect of such competition more each day because the size of the casinos obviously overwhelms the size of a small bingo hall or card room. Any fines collected for violations of the compact will go to the Washington State Council on Problem Gambling because as more gaming is conducted in the state, the number of problem gamblers increases. The compact does allow for amendments if state law is changed, if federal court grants activities that are not currently authorized, the tribe has the right to come back and say they want the same thing. If the state were to enter into a compact with any tribe in the state that allowed for greater tables, more hours, higher wagers, etc., then the other tribes would have the right to come back and ask for the same thing.

Director Miller said the Gambling Commission is very pleased the Yakama Tribe has chosen to agree to a compact in an area of the state where no other tribes have compacts with the state. There is pressure for the Tribe to operate illegally and we are pleased that the tribe has agreed to do it the way the federal law intended. In conclusion, the compact allows for a few other activities. It allows for off-track betting, keno, and lottery type games. Any other table game authorized in Nevada would also be authorized here. This has been a tough compact to negotiate yet a rewarding one. The Tribe is devoted to strong regulation and working with the state.

Chairman Tull said he would hold questions until after the Commission has had the presentation from the Tribe and after the Commission has opened up the microphone to people from the audience.

Ross Sockzehigh, Yakama Indian Nation, said this has been a long process and the Tribe anticipates they have everything to gain with this compact and is confident that the concerns raised by the community will be addressed. He said he does not have a formal presentation but the Tribe is prepared to participate in the discussion and help answer questions of the public.

Chairman Tull called for public testimony.

Bernard Gamache, said he and his family own and operate a farm within the historical boundaries of the Yakama Nation's Indian Reservation. He said he is opposed to gaming. He testified that the most urgent of his concerns was that of public safety. He said public safety is not properly and entirely addressed in this compact. The Nation and the Gambling Commission made a noble attempt to provide for the protection and welfare of the citizens of the state and for the members of the Nation by agreeing to a limited waiver of immunity. However, that waiver is much too narrow. Casinos on the Yakama Indian Reservation increase the exposure to the unequal application of state laws. The Nation is not obligated to follow state laws and that creates a dangerous situation to public safety. He stated immunity from the laws of the state must be waived by the Nation. Cooperative mutual aid or cross deputization agreements without the waiver only shifts total liability for redress to the state and the county.

Mr. Gamache noted that page 29, section 9, paragraph D of the compact states that the Nation takes exception to consent to the concurrent jurisdiction and/or application of any other laws of the state and he said that posture needs to change, because sovereign immunity prevents equal application of the law and completely eliminates all incentive for improvement of performance. He said people cannot sue the Nation for any wrongdoing on their part, nor is the Nation answerable to elected officials of this state. The waivers of immunity relate only to gaming issues, yet he points out that such waiver is not consistent with the statement on page 27, section 7, paragraph E, "Public safety issues need to be resolved completely as primary concern."

Mr. Gamache said that under the declaration of policy and purpose on page 2 of the compact is the stated intention of the parties to foster full cooperation between the Nation and the state on the basis of a shared concern for the welfare and protection of all members of the Nation and citizens of the state as a result of gaming on the Yakama Indian Reservation. He then stated his position that "all members of the reservation and citizens of the state" is too exclusive. Many individuals are left out. What about the travelers from other

states? Foreign visitors? Military personnel? Employees? He also questioned the meaning of the phrase "as a result of gaming on the reservation." He also noted that page 14, paragraph M suggests that alcohol will be served, and that section 7, paragraph E implies that local law enforcement hands will be tied as usual because of the sovereign immunity.

Mr. Gamache asked who carries the burden for public safety on the reservation.

Cross deputization will not work without an immunity waiver. Immunity to state laws must be waived before there can be a safe and progressive reservation. Class III gaming requires the state and the tribe to enter into a compact and the Class III activities have to be legal under both state and tribal law, but that doesn't satisfy the problems outside of the casino area as they currently exist. Who will discipline the tribal police when they injure, kill, or cause loss of property? How will redress be accomplished? Again who carries the burden for public safety on the reservations? Not the Nation. He said there is no real employment opportunity for the tribal members because the compact states that others will also be employed at the casino.

Mr. Gamache asked under Section 6, paragraph A, sub-section 3, what safety standards are the employees covered under? Are they covered under WISHA? Are they covered under Washington State Industrial Insurance? He asked that under Section 6, paragraph E, reporting to state gaming agencies, this paragraph implies that the state has a financial responsibility to assist in compliance.

He said the wording should read "may assist" and "may provide," not "shall." In Section 7, paragraph E, regarding jurisdictional issues, he recalled, as stated in the declaration of policy and purpose, a shared concern for the protection and welfare for all members of the Nation and citizens of the state is intended as a result of gaming. He said the results of gaming are going to be experienced far wider than just the class III gaming facility and that only a waiver of immunity to state laws can accomplish that intent and provide the best for public safety. Only then will concurrent jurisdiction will become meaningful and acceptable.

Mr. Gamache said there seems to be a conflict in language on page 28, section 9, paragraph A, which implies an extension of authority to the tribal police to have jurisdictional power over non Indians on tribal lands, but that page 5, section 2, paragraph O states that there will not be an extended authority. He said that page 30, section 10, paragraphs A & B, imply that once the compact is signed and enacted, then any of the provisions that have been negotiated and agreed to can be deemed inactive. Also, section 18 should be rewritten to render this compact void of any of the provisions that are not enacted. He said page 34, section 11, paragraph B, states that "the state gaming agency may bring an action to enjoin the Nation, the gaming operation, or any individual."

Does this include the tribal police while on duty? If so, then the compact should state so. **Mr. Gamache** then addressed page 39, section 14, paragraph A, sub-section 7, regarding "Yakama nation laws regarding public health, safety, environmental protection standards," and wondered how is this going to be enforced when public safety is being compromised? He also said section 12, page 34 doesn't address violations of the Nation Law and Order Code by their own police department. How are grievances redressed when you can't sue the Nation?

He said all he is asking is that the environment of public safety on the Yakama Indian Reservation be a priority issue of the compact. If the reservation

cannot be protected, then please accept the following alternative: no compact until this issue is resolved.

Chairman Tull requested a copy of Mr. Gamache.'s remarks. **Mr. Gamache.** said yes, he would leave copies of his remarks.

Commissioner McLaughlin asked how he feels about gambling. **Mr. Gamache.** said he doesn't have time to gamble, but that everyone has the right to pursue economic opportunities, but that there is an underlying problem that needs to be addressed first.

Commissioner Ludwig asked Mr. Gamache if he would rather have no compact, since the state would then have no control over the gambling activities.

Mr. Gamache replied he believed that Director Miller stated that those issues can be addressed with the Department of the Interior.

Chairman Tull asked what happens if someone is injured by an employee or a dangerous condition within the casino and that person sues in any court including tribal court, whether that person be greeted with the assertion by the tribe of sovereign immunity?

Jerome Levine, Counsel for the Yakama Indian Nation, said in order to qualify for gaming under federal law, the tribe had to pass an ordinance and adopt regulations in conformity with the Indian Gaming Regulatory Act. He said the procedure for complaints is to address the Tribal Gaming Commission and an opportunity to present and obtain redress. He said he did not have the written process in front of him to refer to, but it is the same process other tribes across the country use.

Chairman Tull asked if the Tribal Gaming Commission would be empowered to compensate for damages. **Mr. Levine** answered it would be empowered to make a ruling as to the damages, if any, that were claimed by the patron. He said he did not want to speak without the process in front of him, but there is a process that is consistent with that which is followed by tribes across the country and passed muster with the Federal Indian Gaming Commission, as that is a concern of theirs, so he assumes that it is something that is comparable.

Chairman Tull asked whether or not the Yakama Nation currently provides coverage under Washington's Industrial Insurance Laws for employees of the tribe? **Mr. Levine** said he did not know the answer to that, but he thought that the workers' compensation laws in general are typically adopted in these casinos. He thought that under federal law, there was a requirement that if they don't do that, then they are going to have to do it some other way that is more expensive for them.

Chairman Tull said these are topics that the Commission has not talked much about in the past. The Commission has attempted for a number of reasons to keep its focus on the issue of gambling regulation, recognizing that its jurisdiction only goes so far even in that regard, but the concerns raised by Mr. Gamache echo the concerns of others in other areas. He said he would personally like to hear more about the process Mr. Levine referred to in the coming days. He said he felt those issues all exist separate from the notion of the compact. He was sure that the tribe had businesses that attract non-members presently. Apparently problems exist from time to time and certainly it wasn't that many decades ago that this state had a very self-protective

notion of sovereign immunity. He would suspect in time the tribes, at least for certain types of tort liability, will adopt a more progressive attitude as well.

Commissioner Heavey asked about the general jurisdiction for tort claims on Indian lands by or against the tribe or tribal members. **Mr. Levine** answered that generally the claims are submitted to an appropriate court, provided that court has jurisdiction. He said that it really depends whether or not there has been either an assertion of jurisdiction under appropriate circumstances or whether there's been a waiver. For example, this good faith/bad faith provisions of IGRA has a jurisdictional issue, even though Congress has provided that the state can be sued, the state has raised questions about its sovereign immunity. That's before the Supreme Court right now so there are jurisdictional questions like that and with individuals who make claims against the tribe certainly the defense of immunity is available to the tribe.

Commissioner Heavey asked about situations beyond the gaming activity. **Mr. Levine** said if the claim were made in a state or federal court, generally the tribe would be eligible to raise the defense of sovereign immunity. **Commissioner Heavey** asked if that has arisen in the past and if so, what has been the result. **Mr. Levine** said he doesn't act as general counsel for the Yakama Nation, so he cannot answer the question.

Mr. Sockzehigh said that a recent incident occurred where a grandmother, a member of the Yakama Nation, was killed in an auto accident. She also lost three of her grandchildren and the person that caused the deaths was not a member of the United States nor was he a member of the state of Washington. Consequently, tribal court had no jurisdiction and due to lack of evidence, the person causing those fatalities walked away free. Those peoples' deaths have gone unanswered. With the question of liability and these sorts of things, this is something the tribes, especially the Yakama Nation, federal government, and the state of Washington are going to have to work out in the near future, perhaps some sort of a congressionally mandated law.

Commissioner Heavey said his question was misinterpreted. His question was just one of general information, not with regard to members of the tribe versus non-members of the tribe.

Commissioner McLaughlin asked Director Miller if the 2% payment to local government was for more law enforcement to help with public safety on the reservation, not just in the casino? **Director Miller** replied yes, that is the intent. The Commission has always taken the position that on a general question, it's tribal court. That's where the claim would be made and tribal law would apply. Whether a person has redress or not is a tribal issue and we have no authority to push it. He hoped that answered Commissioner Heavey's question.

Commissioner Heavey said his question had nothing to do with gambling. **Director Miller** said he was talking about civil tort claims, that tribal court is a remedy and that staff have always been of the impression that if someone is injured and files a claim, their jurisdictional forum is to go to tribal court.

Chairman Tull asked where the sovereign immunity may or may not be imposed, depending upon the wish of the tribe at that point? **Mr. Levine** said the whole issue of sovereign immunity is a governmental immunity and that's the only time we're talking about and that's when we've got an issue involving a government official acting in their official capacity. When we're talking about individuals versus individuals, the forum is either tribal, state or federal court.

Chairman Tull said he believed that the original speaker's concern apparently arises from the issue of a tribal agent or employee or perhaps officer in the absence of an ability to get a remedy.

Senator Prentice stated that this is not the first compact negotiated by the Commission, and so by now we have some track record about the similar types of question that Mr. Gamache has raised. She asked if that was correct.

Director Miller said that when it comes to issues other than gambling, it's always been with the tribal court because that's the jurisdiction over the casino. If it's an issue of gambling, then the Commission gets involved. For the most part, the civil claims in casinos are not gambling related. The Commission has taken that position because it does not have the authority under IGRA to negotiate waivers of sovereign immunity beyond gambling. IGRA was not designed to take away sovereign immunity from any other issue and the law specifically states it's not to be construed to give the state the ability to hang over a tribe's head the removal of sovereign immunity for any other purpose than the regulation of gambling. When it comes to things like environmental laws and public health and safety laws, tribal law and applicable federal law applies on tribal land, not state law. It is important to keep that in mind and that the Commission has done as much as it can do under the authority in IGRA to create an environment of mutual regulation when it comes to gambling. The 2% contribution is exactly designed to offset those impacts where there is no jurisdiction and where there is some sovereign impacts.

Senator Prentice said that ever since she first started with the Legislature she's been hearing about the IGRA. Every community that the Legislature has dealt with has reacted in the same way because casino gambling is a vast change. It is also a change in the relationship. This shouldn't surprise us, having watched the evolution of each of the compacts. As a member of this Commission, she thanked the Yakama Nation and said they have been here much longer than since 1913, and they could have gone outside of the law, but instead chose to go the hard way, which is negotiations, and one side can't dictate in negotiations what the other side will do. We came on a government to government basis, that doesn't mean that many of the fears have been answered because this is one of the things that relationships within this community are going to be hinging on, but that is how we work with each other.

This Commission has had to work through a lot of the old feelings about each other that emerge through all of this. Nevertheless, our assignment is dealing with the whole area of the compact and from here on out, unless we hear something factual that would make us not approve, we also have to look at what the option is.

Senator Prentice said that if the Commission were to say no to this compact at this stage, then the Tribe would likely begin operating a casino without a compact, which is what some other tribes in the area have done. We would be looking with alarm, waiting for the Department of the Interior to step in,

because the situation would be so out of control. She said that if we're concerned with the safety of our children, this compact, at least until we hear otherwise, is the direction we need to go in.

Chairman Tull asked for clarification from Director Miller that the involvement of the community contribution fund in this compact or others would be used as an identification fund for the victims of torts. **Director Miller** said he didn't mean to imply that, but his intent was impacts on local law that are a result of the operation of the casino, not civil suits.

Commission Heavey clarified that his earlier question was simple curiosity and had nothing to do with trying to use a compact to extend the authority of the state and general jurisdictional questions. He said his questions should not be interpreted as ways to gain further control over Indian nations because that has not been his general attitude. They should not interpret his question as any desire expand the State's jurisdiction where it doesn't belong. He said the state's jurisdiction does not belong in regulating activities on the Yakama Nation except with regard to gambling.

Chairman Tull referred to the list of people who signed up. He called the names; however, no one came forward.

Chairman Tull introduced Steve Isaac of the Yakama Gaming Commission. **Mr. Isaac** said Director Miller was right, that the negotiation process took a lot of false starts before it was completed, but that they were glad it was completed.

Chairman Tull offered the opportunity for anyone else to testify in front of the Commission. He said there would be an opportunity for submission of written testimony in the coming weeks.

A reporter from the Associated Press asked if the Tribe is ready to announce the location where it plans to build the casino. **Mr. Sockzehigh** said the choices for location have been narrowed down due to the recent floods.

Commissioner Ludwig asked if the Legislature will be holding an interim meeting to address this issue. **Director Miller** said he is not aware of any planned special meetings.

Dan Stuber asked why the state is so dead-set against electronic machines. **Chairman Tull** said this Commission believes, on the advice of its lawyers, that the Legislature has determined that those machines are not legal. The Commission does not have the power to add machines to the statute. If they are made available, we will regulate them. **Mr. Stuber** said his question is because the machines in Oregon are doing well and are quite popular. **Director Miller** said that is because Oregon's state lottery owns video poker machines, thus Oregon was mandated to negotiate slot machines with the tribes. The Commission realizes there are many people that want slots, but we don't promote it and as a matter of state law they are illegal.

Ms. Charlie said the Tribe needs slot machines and said it is unfair that some tribes already have slot machines and the Yakama Nation is not allowed to have slots. She asked what is a casino without slot machines. She asserted that the Yakama Nation's treaty and sovereignty status allow them to bring in slot machines without the state's approval. **Ms. Charlie** said this compact has taken

a lot of time and energy to complete. She said this board should now allow the Yakama Nation to have slot machines. She said she is against the compact as long as it does not include slots.

William Charlie, said he is a member of the Yakama Nation and is also a member of Puyallup and Cowlitz tribes. He said elected officials seldom visit the reservation to see what confronts the Yakama Nation. Economic opportunities are very minimal and the state offers little recourse. The tribe does look at this from both the peoples' point of view as well as the elected officials. It seems that the Yakama Nation has to jump through many political hoops before starting while the race has already been run and finished.

Chairman Tull called for any other public comments; no one came forward. He reminded everyone that written comments are still being accepted, and this issue will be taken up again at the April Commission meeting.

PULL TAB DISPENSER REVIEWS

ARROW INTERNATIONAL'S POPP-OPENS 5000 TICKET PULL TAB DISPENSING DEVICE

Mr. Michael Aoki-Kramer said a rules package passed in November in conjunction with the Washington State Licensed Beverage Association which included a provision to bring pull tab machines before the Commission for approval. He said up until a couple of years ago, each pull tab dispensing machine came before the Commission for approval for use in Washington state. The practice was discontinued because there was not much innovation or difference in pull tab dispensing machines. However, recently, manufacturers have been attempting to fill the gap between pull tab dispensing devices and gambling devices such as slot machines by making pull tab dispensing devices look and feel more like slot machines. The manufacturers are hoping to market these new machines in those states where gambling devices such as slot and video card game machines are illegal. As a result of the innovation in the marketplace, staff felt it would be appropriate for pull tab dispensing devices to come before the Commission again for specific approval.

Mr. Aoki-Kramer said the first machine before the Commission is manufactured by Arrow International, Inc. He then reviewed the individual rules relating to the construction standards which apply to pull tab machines as set forth in WAC 230-30-097.

Mr. Aoki-Kramer said Arrow's machine does not meet a couple of the requirements, such as displaying the manufacturer's name, clearly displaying all the pull tabs, and dividing the tabs into groups of twenty-five. He noted the licensee submitted a letter stating that it will make all the required changes. He said staff recommends approval of this device pending verification by WSGC staff that the changes have been made.

Chairman Tull said staff has recommended that this machine, made by Arrow International and named "5000 ticket dispenser" be approved.

Mr. Grothe said there is no name displayed on this particular machine. He said that the name should be clearly seen on the machine before voting on it by name. **Chairman Tull** agreed. **Mr. Aoki-Kramer** said this machine is called

"Popp-Opens Pull Tab Dispensing Machine." by the manufacture and is referred to as such in the owner's manual.

Commissioner Ludwig seconded Commissioner Heavey's motion. *Vote taken, motion carried with four aye votes.*

BINGO KING'S TAB MASTER

Mr. Aoki-Kramer said this machine looks similar to the previous one. He demonstrated how the machine dispenses tabs. He said staff is not recommending approval until the Assistant Attorney General determines whether or not this machine meets the definition of a gambling device as set forth at RCW 9.46.0281.

Patrick Greene, representing Bingo King, said the purpose of this machine is to redeem coupons below a certain dollar value, i.e. \$20 and below, at the machine. To do that, the machine employs the technology of bar code scanning.

He demonstrated how the machine works. He said there were several safeguards built into the machine. This particular bar code represents the serial number of the game, it represents a tracked winner, which means if a winning ticket is redeemed at the machine, you could pull out that ticket and try to redeem it again, but the machine would not accept it. Winning tickets will not be accepted twice.

Chairman Tull asked what happens if a customer said a winning ticket came out but no credits were shown on the display. **Mr. Greene** said once a winning ticket goes through the machine and is paid out, that ticket would be recognized by the machine as invalid because it records each ticket that comes out as having already been played and the winner paid. Once the winner is fed back into the locked box for payment, it is kept by the machine.

Commissioner Heavey moved for acceptance of staff's recommendation. **Chairman Tull** concurred and said this matter would be continued this next month.

QUALIFICATION REVIEWS

BOYS' AND GIRLS' CLUBS OF KING COUNTY, Seattle

Mr. Nunamaker said this is a charitable organization that has a Class "I" bingo license and also holds a Class "G" punchboard/pull tab license. The organization was formed to provide a building facility, professional staff, fun environment, and programs to assist youth in developing self esteem, values, and skills. Formed in 1943, they have been licensed by the Commission since 1977. Program services include culturally sensitive services to minority youth, educational support programs for at risk children, and youth development programs targeting young people who are at risk for gang involvement. Net revenues totaled 4.3% of total revenues for the year, and they spent approximately \$4 million in support of its stated purposes.

Staff recommends approval for qualification as a charitable organization for the purposes of conducting gambling in the state of Washington.

ROTARY CLUB OF COLUMBIA CENTER, Kennewick

Mr. Nunamaker said this is a civic organization with a Class "H" bingo license, and also hold licenses in punchboard/pull tabs and amusement games. They were first formed in 1985 and have been licensed since 1989. Their stated purpose is to work with students in pursuit of vocational education by helping them with leadership training and providing scholarships to further their education.

They are also actively involved in student exchange and international aid programs. Net gambling revenues represented 85.7% percent of total revenues, and they spent approximately \$140,000 in support of their stated purposes including \$4,568 to cover administrative costs, which is 3.3% of total expenses. The organization is currently reserving funds to build a new facility to house their gambling operations and community service programs. During the year, the organization contributed \$88,000 to the affiliate Columbia Center Rotary Charity, which in turn distributed \$81,020 in charitable contributions and provided \$5,000 in scholarships.

Staff recommends approval for qualification as a civic organization for the purposes of conducting gambling in Washington.

Commissioner McLaughlin asked if the purpose of this review is to relicense these organizations. **Chairman Tull** said these reviews are simply illuminating and the Commission endorses an organization's ongoing qualifications. On occasion, the reviews have led to very significant actions in requiring the organization to reform itself and if the Commission does not find it qualified, then certain procedures are followed that can eventually lead to a licensing/administrative penalty proceeding. **Chairman Tull** said the review is intended for the Commission to understand an organization is making its money and what it is doing with the money.

Mr. Bishop said that one of the requirements of being a qualified organization is for the organization to demonstrate to the Commission that it has made significant progress in the proceeding 12 month period in completing its stated purpose. **Commissioner McLaughlin** asked what the review of United Blind was about. **Director Miller** said that was because problems were found in that they were not meeting net income requirements.

Commissioner Ludwig moved to approve these organizations. **Chairman Tull** suggested waiting to vote until all the organizations have been presented.

SPOKANE GUILDS' SCHOOL/NEUROMUSCULAR CENTER, Spokane

Mr. Nunamaker said this is an educational organization with a Class "J" bingo license, and licenses in punchboard/pull tabs and raffles. The organization was formed to provide a continuum of education, care, and services to children with developmental disabilities and their families. It was formed in 1960 and has been licensed since 1990. The organization maintains an assessment and treatment center in Spokane for developmentally disabled children. Program services are delivered by a team of special education teachers, occupational therapists, physical and speech language therapists, a pediatrician, and a nurse. Net gambling revenues totaled 6.6% of total revenues for the year. They spent approximately \$980,000 in support of their stated purposes,

including \$156,000 to cover administrative costs, which is 15.8% of total expenses.

Staff recommends approval for qualification as an educational organization for the purposes of conducting gambling in Washington.

Commissioner McLaughlin stated that this seems to be a worthy organization. **Chairman Tull** remarked he has a friend whose son was involved with them and he felt they were worthy.

Commissioner Heavey asked about the net income percentages on all 3 organizations that were discussed. **Mr. Nunamaker** said Spokane Guilds' School is one of the groups that falls under the license class downgrade moratorium of WAC 230-20-064. He said they have been downgraded during this current license year because they had an 8.1% net income where they should have had 13%. The net income rule includes some add-backs. They were doing 8.1% with the add-backs.

Mr. Bishop said that in order to get to the net income percentage, because all activities are combined, part of the 13% is the pull tab income, any snack bar income, and also an add-back for all local taxes paid. **Chairman Tull** said he doesn't see anything in the report that indicates how much money is returned to the organizations. **Mr. Nunamaker** said the report format is currently by reworked and will include quite a few recommendations from Commissioner Heavey.

Commissioner Heavey moved to accept recommendation of staff. **Commissioner Ludwig** seconded the motion. *Vote taken, motion carried with four aye votes.*

GENERAL DISCUSSION/OTHER

Commissioner McLaughlin said she would not be able to attend the April Commission meeting. She said she also has an obligation in June and wondered if there would be a quorum without her. **Commissioner Ludwig, Commissioner Heavey, and Chairman Tull** each indicated they would be present at the June Commission meeting.

Director Miller said Assistant Attorney General Bert Paul, who represents the Commission for tort claims, called to say he attended a settlement conference and would like the opportunity to meet with the Commission for a short executive session following tomorrow's meeting.

Chairman Tull said the Commission will make time for Mr. Paul.

Director Miller requested an executive session to discuss current tribal-state compact negotiations. **Mr. McCoy** said he needs to discuss pending appeals with the Commission. **Chairman Tull** said executive session will consist of pending appeals and a discussion of compact negotiations and there will be no other public business following the executive session.

Chairman Tull adjourned the meeting.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES
COMMISSION MEETING
FRIDAY, MARCH 15, 1996

Chairman Tull called the meeting to order at 10:10 a.m. at the Yakima Valley Red Lion Inn, Yakima, Washington.

MEMBERS PRESENT: ROBERT M. TULL, Chairman; EDWARD HEAVEY; CURTIS LUDWIG; and ELIZABETH McLAUGHLIN; and Ex Officio Member SENATOR MARGARITA PRENTICE.

OTHERS PRESENT: FRANK L. MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special
Operations;
SHERRI WINSLOW, Assistant Director, Field
Operations;
CARRIE TELLEFSON, Special Assistant, Public Affairs;
JACKI FISCHER, Special Agent, Financial
Investigations Unit;
JONATHAN McCOY, Assistant Attorney General;
and SUSAN GREEN, Executive Assistant.

Chairman Tull said the printed agenda incorrectly states that today's meeting begins at 1:30 p.m., but there are quite a few people in the audience. He noted the Friday meetings have commenced at 10:00 a.m. for at least ten years, so most regular attendees are aware of the correct meeting time. The meeting places and times are published by the code reviser and also in the Commission newsletters.

Chairman Tull introduced the newest commissioner, Liz McLaughlin, and said she is quickly learning about the Commission. He said there is an addition to the agenda; there will be an executive session following today's public session to discuss pending litigation with one of the assistant attorney generals.

APPROVAL OF THE MINUTES FROM THE FEBRUARY 8-9, 1996, MEETINGS

Commissioner Heavey moved to accept the minutes from the February 8-9, 1996, Commission meetings in Olympia, Washington, as set forth in the agenda packet.

Chairman Tull seconded the motion. *Vote taken, motion carried with four aye votes.*

STAFF REPORTS

Director Miller said there are four brief staff reports.

LEGISLATIVE UPDATE

Ms. Tellefson summarized legislative action on gambling bills. There were approximately 23 bills tracked by WSGC staff throughout the session, but few passed. Substitute Senate Bill 6430 (SB 6430) was the most significant gambling bill to pass the Legislature. SSB 6430 authorizes an increase in card tables in a card room from 5 to 15, which would be set by a rule passed by the Commission. SSB 6430 also authorizes card rooms to take a rake from the pot as opposed to just charging a fee, and it authorizes the house to be custodians of player supported progressive prize contests such as jackpot poker. WSGC staff has begun meeting with members of the industry to discuss potential rule changes to implement this bill.

Ms. Tellefson said there was a \$1 million appropriation added to the Gambling Commission's budget at the request of the Commission and director to reimburse funds taken by the Legislature in 1992. This one-time appropriation was added to the state's budget.

Commissioner McLaughlin asked if the card room operators can take both a fee and a rake, or do they have to choose which method they will use. **Ms. Tellefson** said staff is still determining how that will be set forth, but the option now is for either. The specifics will be set by rule of the Commission.

Chairman Tull asked if there is any expectation as to whether this bill will be signed. **Ms. Tellefson** said she does not know as of yet. **Director Miller** said he has not heard of any opposition from the Governor at this point.

Ms. Tellefson said the prohibition on greyhound racing passed also, but has little affect on the Gambling Commission.

SPECIAL OPERATIONS DIVISION UPDATE

Bingo Theft/Update

Sharon Tolton, Assistant Director, Special Operations Division, said her division is comprised of the following three units: the Tribal Gaming Unit, which implements the terms of the tribal-state gaming compacts; the Criminal Intelligence Unit, which serves as a support area for the entire agency; and the Special Investigations Unit, which conducts primarily criminal investigations and works on illegal gambling activities throughout the state.

Ms. Tolton gave an update on the sentencing of Joe Surace, former bingo manager for the Central Area Youth Association (CAYA) in Seattle. She said the original case began as a review of alleged misuse of funds within CAYA in April 1994. During an interview, staff elicited a confession from Mr. Surace to the theft of funds from this organization and a summary suspension of his bingo license followed. After a complete investigation, Mr. Surace's bingo manager license was revoked for life, which was not appealed and is currently in effect. A criminal case was forwarded to the King County Prosecutor and charges were filed for first degree felony theft. Mr. Surace pled guilty and was sentenced March 8 in Seattle. He received 30 days in jail with work

release and is to report on April 19 at no later than 4:00 p.m. He received 240 hours of community service and is required to pay restitution to CAYA in the amount of \$16,233.54 to be deposited by March 14. She said there were also administrative charges involved in this case against both the executive director and the assistant bingo manager. The case is closed.

Tribal Gaming/Community Contributions

Ms. Tolton said that on Wednesday, March 13, she attended a meeting of the Chehalis Tribe Community Contribution Committee. The compacts have provisions for a committee to be formed to disperse the two percent community impact fund generated as two percent of the net win from Class III operations within the casino. Phase II has been implemented at the Chehalis Tribe's facility, which was first opened in June 1995. The Community Contribution Committee is comprised of Ms. Tolton, representing the Gambling Commission and the state of Washington; Dick Nichols, Thurston County Commissioner representing the County and general interests throughout that area; and also representatives from the Tribe. Decisions are made on the committee by consensus.

Ms. Tolton said there are two quarters worth of contributions available for distribution from 1995, and the approximate total is \$160,000. For 1996, the estimate based on the prior two quarters' income is approximately \$320,000. The Committee decided on Wednesday to contribute to the following recipients: Thurston County Sheriffs Office, which has jurisdictional authority within the area of the casino; CAPCOM, which operates the 9-1-1 system; Medic One; Fire Districts #1 and #14 within Thurston County; and the Thurston County Roads and Transportation Department.

Ms. Tolton said most of the organizations submitted their requests in the form of grants and letters to receive some of these funds. Not all of the organizations' wishes were granted, but every group participating received something. The Oakville Police Department, which is very close to the facility and responds for back-up to the tribal police, received funding, and the Oakville Fire Department also received funding. Oakville School District No. 400, Rochester High School and Rochester Middle School received a one-time purchase of additional computer equipment. When casino opened, people moved into the area to work at the casino, so the school district was caught a little off-guard in having a lot of new students that were not expected to enter these small schools.

Ms. Tolton said the Washington State Patrol, which has a small detachment near Chehalis, received about \$6,000 for additional equipment. Grays Harbor County is a bordering jurisdiction near the Chehalis Tribe, and their Department of Public Services, Fire District #1 and the Grays Harbor Sheriffs Office also received funds. The Grays Harbor Sheriffs Office did not request anything and submitted a letter stating they would like to review their impacts at a later time, but the Tribe saw fit to allow \$2,500 to go to that agency for its DARE program. The Washington State Council on Problem Gambling also received some funds.

Ms Tolton noted a very interesting request that got the vote for most creative came from Grays Harbor County, which requested the purchase of two hover crafts to use during flooding at a cost of \$385,000. She said that although the request did not seem reasonable at this point, the Sheriff and the Fire Department ought to be commended for the effort. She explained that some of

these are one-time disbursements, and others will be on-going considerations from year to year. The funds will be disbursed on a quarterly basis to the local agencies.

Ms. Tolton said that Chairman Mel Youckton of the Chehalis Tribe also wanted her to announce that they will be the first tribe to set aside funds for use as a revolving account to assist other tribes that are not doing so well with regulatory costs. She said the Chehalis will also encourage other tribes to participate in that effort as well.

Tribal Gaming/Phase II Reviews

Ms. Tolton said that six of the ten operating Class III facilities with compacts are currently operating at Phase II. Staff's review of the Lummi Casino, which has been in progress, will be deferred for 30 days pending resolution of certain issues. If those specific issues are resolved, the Phase II review will likely be presented at the April Commission meeting in Blaine. The WSGC Tribal Gaming Unit staff will begin Phase II reviews shortly on both the Upper Skagit facility near Mount Vernon and the Squaxin Island facility in Shelton. She noted The average number of hours spent on a Phase II review is approximately 500.

Sen. Prentice asked about the Chehalis Tribe's community contribution to Medic One and asked if the hospital in the area requested anything. **Ms. Tolton** said no, the hospital did not make a request. **Sen. Prentice** said then there wouldn't be any reports from the emergency room as to impacts. **Ms. Tolton** said the Tribe sent letters to agencies that they thought would request impact funds, and most of the funds have been focused into emergency service types of organizations, although that does not preclude anyone at any time from pursuing an application with the Tribe for funds from either the charitable table funds or from the 2 percent fund.

Slot Machine Seizure

Ms. Tolton said the Special Investigations Unit recently seized some slot machines with assistance from both divisions within the agency -- Field Operations and Licensing Operations -- and other law enforcement agencies. She thanked assistant directors Sherri Winslow and Cally Cass-Healy. This case was worked jointly with the Seattle Police Department, and cooperation and assistance was provided by Snohomish County Sheriff's Office, Pierce County Sheriff's Office, and Tacoma Police Department. The raid took place on March 3, 1996, when 35 devices were seized, which included three different types of machines. Nine operators were cited at that time for gross misdemeanors and the Prosecutor is considering an upgrade of the charges.

Ms. Tolton said the machines were located in convenience stores, restaurants and bars at 12 total locations. One individual was a current licensee of the Commission. The continuing investigation resulted in the arrest or booking of one of two or three potential distributors of the machines, and he was booked into the Pierce County Jail on two felony counts, possession and having a financial interest in gambling devices. The Prosecutor is considering additional counts on that individual. Other interviews resulted in some additional seizures, which brings the total to 56 machines. The WSGC's

agreement with the Seattle Police Department was that they would provide the evidence storage for machines and WSGC staff would handle the seizure paperwork on the activities. The investigation continues.

BINGO TASK FORCE & LICENSEE MEETINGS

Mr. Bishop gave a report on the status of the Bingo Task Force. There have been four more meetings this month with licensees all across the state. Meetings were held in Vancouver, Ferndale, Spokane and Yakima. In total, there have been six meetings with licensee attendance totaling nearly 150. The agenda for the task force can be found in the Commissioner's handout packets. Eleven organizations have applied for relief so far under the moratorium that was passed last October. The next meeting takes place in the WSGC Renton Office on Wednesday, March 27, 1996, at 1:00 p.m..

ADMINISTRATIVE ORDER APPEALS

Amendatory Section WAC 230-50-560 ((Adjudicated)) Adjudicative proceedings--Review of initial order--Replies--Reconsideration--Final orders.

New Section WAC 230-50-562 Final orders--When an initial order becomes a final order--When and how to file a petition for reconsideration of a final order.

Ms. Tellefson said these rules are up for final action today. WAC 230-50-560 has to do with administrative appeals and changes the time allowed for responding to a petition for review from 10 days to 30 days and allows cross appeals to be filed within 10 days of service of a petition for review. There was a change in the language since the last Commission meeting to clarify that such petitions must be filed with the Commission as the former language did not state that specifically. The change was requested by the Assistant Attorney General who handles appeals. The rule is up for discussion and possible final adoption today. She said Jon McCoy also raised a couple of issues before today's meeting.

Mr. McCoy apologized for not raising his concerns earlier, but one just occurred to him and the other was pointed out to him just before the meeting. He said the first question is on agenda item 4(a), section 5 where it says, "at least a majority of the commission members shall review the petition within 120 days after the petition was filed and render final order in accordance with WAC 10-08-210." The question was, is the Commission required to enter the order within 120 days or just have the hearing. He said his recollection is that the intent of this is that the hearing has to be held within 120 days, but that there is no particular time frame within which the Commission is required to respond. To clarify, he suggested in the second line after the "and" adding "thereafter" to say, "and thereafter render a final order..." and make it more clear that the 120 days applies only when the hearing has to be held, as opposed to when the order has to be issued.

Commissioner Heavey asked about the section that says "at least a majority of the commission members shall review..." He asked if that means the commission shall hold a hearing. **Mr. McCoy** said that technically a hearing is not required. Because the review is conducted by the entire Commission, it requires a majority of the Commission, which is a quorum under statutory rules.

Commissioner Heavey made a motion to change the language to say, "the commission shall review the petition at a regularly scheduled meeting within 120 days," striking out "at least a majority of" and "members." **Chairman Tull** suggested the amendment should just say, "at a meeting," so that a petition could be voted on if a special meeting were called. **Commissioner Heavey** said he had thought about that, but anyone who may want to make a comment on it should be able to at a regular meeting.

Chairman Tull said the motion stands as stated by Commissioner Heavey and with the suggestion by Mr. McCoy. He stated the motion to amend as follows: to delete the words, "at least a majority of;" delete the word "member" that follows "Commission;" to insert after the word "petition," "at a regularly scheduled meeting;" and on the same line after the word "and," insert the word "thereafter." **Commissioner Ludwig** seconded the motion.

Commissioner Heavey asked for clarification on filing with the Commission ten days after filing, and if it's not served that could be a problem. He said the problem in the past has been that it's been held until the last day and then the person says they didn't know until the last day. **Ms. Tellefson** said there is another rule that covers that issue and says it must be served on all the parties the same day the petition is filed, otherwise it's not a valid service.

Mr. McCoy agreed and said that is in the rule at the end of section (1) where it says, "Copies of the petition shall be served upon all other parties or their representatives at the time the petition is filed."

Mr. McCoy said he still has an item to raise under agenda item 4(b), which takes a section that was previously in section WAC 230-50-560 and makes it a separate section. He said with the new Administrative Procedures Act, there was a change in language with regard to the terms "review and reconsideration," and the Commission's rule does not reflect that, and neither does this modification. He said the purpose of this rule is to identify when initial orders become final orders, and he read the rule as stating, "an initial order issued by an administrative law judge or the Commission shall become the final order in the proceedings unless a petition for reconsideration is filed in accordance with this rule." He suggested that before the phrase, "a petition for reconsideration is filed," another phrase should be added that states, "under WAC 230-50-560 or a petition for reconsideration is filed in accordance with this rule." He said this was the original intent of separating out the "final orders" part of the "initial orders" rule.

Director Miller said the only way a final order of the Commission can be reviewed is through a petition for reconsideration. This first sentence deals with the ALJ's order being final, and reconsideration of that cannot be reconsidered, so the only thing that can be filed is a petition for review; otherwise the order is final.

Chairman Tull said this conversation should take place with staff elsewhere until it can be brought forward in a more coherent manner. He called for public comment and comments from the Commission. No one from the audience came forward. He proposed that this rule be held over until next month. He said these types of rules are important and licensees should make the proposed changes available to their legal counsels in case there are concerns about procedural aspects.

Chairman Tull referred to Commissioner Heavey's earlier motion as amending the rule change. *Vote taken, amendment accepted with four aye votes.* **Chairman**

Tull said this rule will be re-published with the amendments for final consideration.

HOUSEKEEPING CHANGES

Amendatory Section WAC 230-02-511 Attended amusement game defined.

New Section WAC 230-20-510 Attended amusement game--Operations restrictions.

Amendatory Section WAC 230-20-055 Use of proceeds from authorized activities by charitable or nonprofit organizations ~~((of proceeds from authorized activities))~~.

Amendatory Section WAC 230-40-055 Card tournaments for fee and prizes--~~((Reporting))~~ Requirements.

Ms. Tellefson said these four rules are also up for final action. The rules are basically housekeeping changes. Changes to WAC 230-02-511 takes substantive limitations out of a definition section and puts into a substantive section of the rules manual, WAC 230-20-510. Amendments to WAC 230-20-055 and WAC 230-40-055 correct statutory citations that were incorrect. Staff recommends adoption of the first three rules; however, because WAC 230-40-055 will come under the SSB 6430 passed by the Legislature, staff would like to discuss further changes with licensee groups and recommends the rule be continued.

Chairman Tull stated for the record that item 5(D) is continued to next month's agenda. He called for public comment on items 5(A)-(C). No one came forward. Commissioner Heavey moved for approval of items 5(A)-(C). Commissioner Ludwig seconded the motion. *Vote taken, motion carried with four aye votes.*

HOUSEKEEPING CHANGES -- RAFFLE TICKET PRICES

Amendatory Section WAC 230-20-325 Manner of conduction a raffle.

Amendatory Section WAC 230-20-335 Raffles conducted among members of an organization--Procedures--Restrictions.

Amendatory Section WAC 230-25-040 Fund Raising Event--House rules to be developed and posted--Limitations on wagers.

Amendatory Section WAC 230-25-220 Raffles or similar lotteries conduced at fund raising events.

Ms. Tellefson said these are four rules, three of which are housekeeping changes to reflect the statutory change in the price of raffle tickets. She said that they were incorrectly filed with the code reviser after being previously presented to the Commission. She also noted there is an addendum to item 6(B), WAC 230-20-335, which is the only rule with a substantive change. WAC 230-20-335 relates to penny raffle limitations. Rather than having \$25 limitations on prices in penny raffles, staff has worked with the organizations that most often hold penny raffles to keep the limit down to \$10. Penny

raffles present accounting problems because the ticket prices are different depending on what's drawn out of the jar. The language in the addendum to agenda item 6(B) is correct; the language in the agenda is not correct. She also noted the deviation from the same price requirement is authorized and those chances are sold for \$10.

Mr. Bishop said that penny raffles are a gamble within a gamble because tickets can cost anywhere from one penny to ten dollars depending on what the customer draws out of the jar. **Ms. Tellefson** said there are different prices each time a ticket is drawn, which makes for difficult accounting. **Director Miller** said that groups like Ducks Unlimited and other clubs use many creative approaches to raising funds for their organizations.

Commissioner McLaughlin asked if there is a monetary amount under which a club doesn't have to get a license to hold a raffle. **Ms. Tellefson** answered that yes, an organization can earn up to \$5,000 from raffles without obtaining a license but must be a qualifying nonprofit organization. She also said the organizations must notify local law enforcement. **Mr. Bishop** said that due to the unique nature and technicalities of penny raffles, an organization would be required to have a license to conduct such a raffle. He also stated that even though other certain types of raffles can be run without a license, the organizations still has to abide by all rules of the Commission.

Chairman Tull said the motion could be filed referring to the published agenda and specifying the differences. **Ms. Tellefson** said the differences are that in WAC 230-20-335 (5), the only change to the original language was the underlined portion that said "twenty-five" should be stricken and changed to read "ten" dollars. She said the other change is in subsection 5(d), where it says, "total gross gambling receipts available from raffles utilizing such schemes are limited to \$1,300 each drawing." The amount of \$1,300 should be stricken and changed to \$5,005.

Commissioner McLaughlin asked why the amount is \$5,005 and not a flat \$5,000; **Mr. Bishop** said it's easier to do the math because if it's added up one through ten dollars, the total is \$5,005.

Commissioner McLaughlin asked if there is sales tax on raffle tickets. **Mr. Bishop** no, and for raffles there is a specific exemption for raffles below \$10,000.

Chairman Tull called for public comment. No one came forward. **Chairman Tull** noted that the only change is at section 5 and 5(d) of WAC 230-20-335. **Commissioner McLaughlin** moved for approval with the correction. **Commissioner Ludwig** seconded the motion. *Vote taken, motion carried with four aye votes.*

STREAMLINING QUALIFICATION REVIEW PROCEDURES AND REQUIREMENTS

New Section WAC 230-02-162 Functional expenses defined.

Amendatory Section WAC 230-02-278 Program service(s) expenses defined.

New Section WAC 230-02-279 Supporting service expenses defined.

New Section WAC 230-02-137 Excessive reserves defined.

Amendatory Section WAC 230-04-024 Bona fide charitable or nonprofit organizations--Minimum qualifications--Restrictions--Definitions.

Amendatory Section WAC 230-04-040 Certification procedure--Charitable and nonprofit organizations--Additional information required.

Amendatory Section WAC 230-04-064 Certification procedure--All licenses--Formal Commission approval.

Amendatory Section WAC 230-08-095 Minimum standards for monthly and annual accounting records--Charitable and nonprofit organizations.

Amendatory Section WAC 230-08-122 Annual (~~certification~~) progress and financial report--All nonprofit and charitable organizations.

Amendatory Section WAC 230-08-255 Bona fide charitable or nonprofit organizations--Records required to show significant progress--(~~Group II and Group III licensees~~).

New Section WAC 230-12-076 Regulation of charitable and nonprofit organizations--Assignment to regulatory groups.

Amendatory Section WAC 230-20-064 Maximum receipts, prizes and expenses for bingo games--Net income required.

Ms. Tellefson said the above 12 rules are up for final adoption today and were proposed by staff in conjunction with the charitable/nonprofit study group and with the Washington Charitable and Civic Gaming Association. She said the amendments refine and streamline the nonprofit qualification review process. It classifies nonprofit licenses by total combined activities as opposed to by individual activities and by dollar amounts. More thorough requirements are placed on those organizations that receive a higher volume license. Staff recommends adoption of this package.

Chairman Tull asked Ms. Tellefson to explain what the WCCGA is. Ms. Tellefson said the Washington Charitable and Civic Gaming Association is a group of charitable and nonprofit licensees who work with the Commission to propose rules and work through the rules packages. Most of the WSGC rules applicable to this group are negotiated with them first before coming before the Commission. Kevin Crum is the current president of the WCCGA. Chairman Tull explained that for a number of years Commission staff has met with the licensee groups to resolve issues regarding rule changes to discuss them and work out any differences. The process has resulted in a smooth rulemaking process by the time the rules reach the Commission level. He said it is an excellent example of the licensee community working with staff through mutual understanding and trust.

Director Miller referred to a question Commissioner McLaughlin had regarding the licensing process and said this clarifies the Commission's role in qualification reviews and that these rules also streamline the workload for the Financial Investigations Unit.

Chairman Tull called for public testimony. No one came forward.

Commissioner Heavey moved for final adoption. **Commissioner Ludwig** seconded the motion. **Chairman Tull** called for the vote. *Vote taken, motion carried with four aye votes.* **Chairman Tull** thanked the licensees and staff for all the work done on this package.

GIFT CERTIFICATES AND TRANSPORTATION TO BINGO GAMES

Amendatory section WAC 230-20-050 Use of proceeds.

New section WAC 230-20-052 Transportation of bingo players.

**Amendatory section WAC 230-20-103 Bingo cards to be sold upon the premises--
Exceptions.**

New Section WAC 230-20-115 Gift certificates--Requirements.

**Amendatory section WAC 230-20-230 Free games for winners ((~~prohibited~~)) --
restrictions.**

Ms. Tellefson said this package consists of five rules that were proposed by the WCCGA and are up for final action this month. Two of the rules would allow bingo operators to provide transportation to players once a week from locations outside of the state. One of the rules would allow the sale of gift certificates for bingo games and one rule would allow awarding free games four times a year. She said staff has worked with licensee groups on these rules and recommends final approval.

Chairman Tull asked if once a week is okay, why not three times a week. **Director Miller** said cost is the reason. Commission staff did not want to give one game an advantage over another game.

Commissioner Ludwig asked if this had any conflict with either Oregon or Idaho laws. **Mr. Bishop** said bingo licensees would have to comply with the local jurisdiction's public transport requirements and that the licensees need to check on those before they start running. **Director Miller** said transporting players to a facility currently goes on quite a bit in the state, especially at the casinos in Skagit and Whatcom counties. He said those casinos bring a lot of buses in from British Columbia. He said the Commission might now see buses in Spokane going out to Idaho. Allowing such transportation to bingo games from outside the state is an attempt to balance what others in the state are doing.

Commissioner Heavey asked about adding a provision for transporting disabled customers without cost and whether it would be appropriate to add such a provision here. **Katie Casey**, Whatcom County Crisis Services, asked for clarification of what Commissioner Heavey has suggested.

Mr. Bishop said the problem in the past has been that it could be considered individual inurement. **Ms. Casey** said she's not sure this is a good idea because this has not been discussed at all with the licensees. She suggested that Commissioner Heavey's amendment not be added now, since the rule is up for final action. She suggested the amendment be discussed further.

Clyde Bock said there may be a problem with defining who is handicapped. If one game does this, then all games will do it, but the definition is a problem.

Commissioner Heavey said if transportation is provided to people who are not handicapped but not for those who have disabilities, the organization may well be in violation of the Americans with Disabilities Act.

Don Kaufman, of Spokane, said the main issue is that free transportation is already provided in many areas to disabled people, and for the bingo game to provide such transportation would cost them a great deal of money.

Commissioner Heavey reiterated his point that if transportation is provided to people who are not disabled but not for those who have disabilities, the organization may be in violation of the Americans with Disabilities Act.

Senator Prentice asked if the Commission had to act on this rule today. **Chairman Tull** responded that the Commission did not have to act today. He said the Commission could continue the matter and he thought it may be an appropriate way to make sure the issues are fleshed out. He thought that what Commissioner Heavey wants to ensure is that there is no doubt about the desire of this Commission to be sure that Commission licensees comply with the law. He further thought that the licensee reaction is that they know there will be some people who will stretch, when convenient for competitive purposes, the definition of disabled or handicapped in order to bring in players and then they will be forced to compete with that and will be faced with extraordinary costs of transportation.

Commissioner McLaughlin asked if the Commission could consider amending the amendment to say that all handicapped persons under the ADA be able to be served in the same way as a non-handicapped person, that way they would not have to make special provisions such as special vehicles and equipment which can be a very expensive proposition. She said she agreed with a continuance of the matter.

Chairman Tull said he detected no reluctance on the part of the Commission making the motion that this matter be fully discussed.

John Beadle, Seattle Junior Hockey, commented about the problem with infringing on another bingo game's market area, and that's why the stipulation is in the rule that this be for out of state players.

Chairman Tull called for any further public testimony. **Commissioner Heavey** withdrew his motion for amending the rule at this time to allow for further discussion on the issue of providing transportation to disabled individuals. **Sherri Winslow**, Assistant Director, Field Operations, said the transportation for disabled persons matter would be discussed at the next study group meeting.

Ms. Tellefson reminded the Commissioners that there are three rules in the package that do not relate to transportation. **Chairman Tull** said those would be heard now. **Commissioner Heavey** clarified his request. **Chairman Tull** said the rules will be voted on as an entire package and the transportation issue may be amended later if there is a consensus.

Commissioner Ludwig moved for approval. **Commissioner McLaughlin** seconded the motion. *Vote taken, motion carried with four aye votes.*

NUMBER OF CARD PLAYERS ALLOWED AT A CARD TABLE

Amendatory Section WAC 230-40-030 Number of tables and players limited -- Exception for good cause.

Ms. Tellefson said Item 9 is an amendment to allow 12 players at a card table regardless of license class. The previous rule had a variation between 10 and 12 players. This rule is up for final action.

Director Miller said these rules can be simplified even more and he would like another month to consider these rules, especially in light of the passage of SSB 6430 regarding card rooms.

Chairman Tull called for public testimony. No one came forward. He said these rules would be held over until the April meeting.

Commissioner Ludwig asked what kind of a card game takes 15 people to play. **Director Miller** said one of the games that takes 16 people to play is baccarat. He thinks the Commission just needs to look at giving the flexibility given the market conditions and come back with some options to clarify the rule.

STREAMLINING RECREATIONAL GAMING ACTIVITY PERMIT PROCESS

Amendatory Section WAC 230-04-120--Licensing of distributors

Amendatory Section WAC 230-04-187--Recreational gaming activity--Permit or license required

Amendatory Section WAC 230-25-330--Recreational gaming activity--Rules for play

Ms. Tellefson said these are up for discussion only this month. She explained that recreational gaming activities are games where no money is involved, but gaming equipment is used. This rule allows organizations or people who want to conduct these activities to either get a permit or contract with a licensed distributor who can conduct the activities on their behalf.

Commissioner McLaughlin asked why people would want to gamble without money. **Mr. Bishop** said such events are quite popular, and noted there are over 300 of them per year. **Director Miller** said these activities used to be done for business functions. The problem is we could never allow them to possess a blackjack or roulette table because under the law, one had to be licensed to possess such professional gambling equipment. Staff came up with the term "Recreational Gaming Activity" to allow organizations to conduct casino table games for members or businesses. Now the "Recreational Gaming Activity" has become an industry. These rules streamline the permitting process.

Commissioner McLaughlin asked if there's no money, then why is the Gambling Commission involved. **Chairman Tull** said state law prohibits individuals from possessing gambling equipment. To make the statute work in the real world, the Commission adopted a set of rules that more or less regulate an activity, but

primarily keeps track of the use of professional gambling equipment and makes it possible for people to possess the equipment.

Chairman Tull called for public testimony on this rule. He also said there would be additional opportunity to be heard at the April meeting.

HOUSEKEEPING CHANGE

Amendatory Section WAC 230-04-204--Fees--Individuals

Ms. Tellefson said Item 11 is an amendment to change the name bingo game manager to charitable or nonprofit gambling manager. This is up for discussion with possible final action in April. **Chairman Tull** called for public comments. No one came forward.

POINT ROBERTS VOLUNTEER FIRE DEPARTMENT - PETITION FOR RULE CHANGE

Ms. Tellefson said this petition is the result of a rule that allowed an exception for the Point Roberts peninsula to be able to use a Canadian bank to deposit gambling proceeds as opposed to a U.S. bank. The Point Roberts Volunteer Fire Department did not know the rule change was on the agenda because it was listed as a housekeeping change but affected them directly. They would like to be allowed to deposit funds in a Canadian bank because there are fees that they would be forced to pay if they use a U.S. bank to write checks in Canadian funds to their players. Most of their players are Canadian, thus they feel it would be more beneficial to them to be able to use a Canadian bank.

Ms. Tellefson said one concern of staff is the ability to get information and records from a Canadian bank. She noted language has been added to require the licensee to authorize the Commission free access to its bank records and to require a response from the Canadian bank indicating it will honor the release.

Chairman Tull called for public comments. No one came forward.

AUTHORIZED SOCIAL CARD GAMES

Amendatory Section WAC 230-40-010--Types of card games authorized.

Amendatory Section WAC 230-46-100--Bona fide charitable/nonprofit organizations--Limited social card games without obtaining a license--Conditions

Ms. Tellefson said the purpose of this rule is to add to the list of games that are authorized. Rather than always bringing new games before the Commission, we've also added a provision that would allow the Director to approve temporarily new games and then bring these games before the Commission only twice a year. **Chairman Tull** added there have been other situations where particular groups within our culture have brought forward games that were popular but perhaps unknown to those outside of the group.

Chairman Tull called for public comment. No one came forward.

Commissioner Heavey moved to file these rules. Commissioner Ludwig seconded the motion. *Vote taken, motion carried with four aye votes.*

ALLOWING ADDITIONAL BINGO GAMES TO BE PLAYED CONCURRENTLY WITH OTHER BINGO GAMES

Amendatory Section WAC 230-08-080 Daily records--Bingo.

Amendatory Section WAC 230-08-105 Disposable bingo cards--Inventory control record.

Amendatory Section WAC 230-20-101 Income from bingo games--Receipting required.

New Section WAC 230-20-104 Cash register method of receipting bingo income.

New Section WAC 230-20-105 Ticket method of receipting bingo income.

New Section WAC 230-20-106 Electronically generated bingo card method of receipting bingo income.

New Section WAC 230-20-107 Disposable (throwaway) bingo card method of receipting bingo income.

New Section WAC 230-20-108 Combination receipting method of receipting bingo income.

Amendatory Section WAC 230-20-240 Bingo equipment to be used.

Amendatory Section WAC 230-20-241 Player selection games.

Amendatory Section WAC 230-20-242 Activities conducted as a part of bingo games--Authorization--Restrictions.

Amendatory Section WAC 230-20-246 Manner of conducting bingo.

Ms. Tellefson said Item 14 is a group of 12 rules. These rules have been worked out with the study groups. Some of them are housekeeping changes that clarify receipting rules to make them more detailed and set them forth in separate rules as opposed to one long rule. It also authorizes "powerball" and clarifies how instant winner games are conducted. There is one amendment that was discussed at the study group under 14(h). WAC 230-20-108. Item 1(a) and 1(c) there is a reference to no more than five subgroups and the discussion resulted in a clarification or a request for language that would say no more than 10 subgroups. Chairman Tull said these rules are up for filing so that change can be made.

Chairman Tull called for public comment. No one came forward.

Commissioner Ludwig moved to file. Commissioner Heavey seconded the motion. *Vote taken, motion carried with four aye votes.*

HOUSEKEEPING

Amendatory Section WAC 230-08-090 Daily Records--Card Games.

Ms. Tellefson said Item 15 is a housekeeping change that reflects the change in the card room hours authorized by WAC 230-40-400. Staff recommends filing.

Chairman Tull called for public comment. No one came forward.

Commissioner Ludwig moved to file. **Commissioner Heavey** seconded the motion. *Vote taken, motion carried with four aye votes.*

UNFINISHED OR OTHER BUSINESS

APPEAL HEARINGS

Chairman Tull said we are in the process of completing final drafting of three orders and pending appeals.

Chairman Tull said there will now be an executive session with the Attorney General's Office to be convened at noon.

COMMENTS OF PUBLIC OR PUBLIC OFFICIALS

Chairman Tull asked if anyone would like to bring anything up at this time. No one came forward.

Chairman Tull adjourned the meeting.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant